

STEVEN P. KELLY, ESQ.  
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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW JERSEY**

In Re:	Chapter 13
Arvene R. Yeager	Case Number: 18-30126-CMG
Debtor(s)	Judge: Christine M. Gravelle

**AMENDED OBJECTION OF ASPEN PROPERTIES GROUP LLC TO DEBTOR'S CHAPTER  
13 PLAN WITH RESPECT TO REAL PROPERTY LOCATED AT 17 HARBORAGE AVE,  
BAYVILLE, NJ 08721**

Aspen Properties Group LLC (hereinafter, "Creditor"), through its Counsel, Stern & Eisenberg, PC, respectfully requests that this Honorable Court deny confirmation of the Chapter 13 Plan filed by Debtor Arvene R. Yeager (hereinafter, "Debtor"). In support thereof, Creditor respectfully represents as follows:

1. On July 11, 2006, Debtor signed a note and mortgage in the principal sum of \$76,383.37, evidencing a loan from Wells Fargo Bank, N.A. in the same amount, secured by the real property located at 17 Harborage Ave, Bayville, NJ 08721 (hereinafter, the "Property"), as evidenced by a mortgage recorded with the Clerk of Ocean County on August 8, 2006 in Book 13285 at Page 1147 as Instrument No. 2006130002.
2. Creditor is the holder of the note and assignee of the mortgage.
3. Debtor filed a Chapter 13 Bankruptcy Petition on October 9, 2018 and as a result, any State Court proceedings were stayed.
4. Creditor objects to Debtor's proposed Chapter 13 Plan (hereinafter, the "Plan") for the following reasons:
  - a) The Plan is infeasible in that the Plan:
    - i. Is underfunded and does not provide sufficient funds to pay the claims.
    - ii. Does not provide for sufficient funds to Creditor in order to cure the pre-petition arrears due to Creditor in the amount of \$91,940.78.

- b) The Plan does not adequately provide for post-petition payments in the monthly amount of \$783.37.
- 5. By proposing to pay Creditor as proposed, the Plan violates the standards of 11 USC § 1325(a)(5)(B)(i) and (ii) because it pays Creditor less than the allowed amount of such claim.
- 6. Further, the Debtor seeks to improperly modify or bifurcate Creditor's secured claim on Debtor's real property without a determination as to the value of the real property as provided by 11 U.S.C. § 1322(b)(2) and 11 U.S.C. § 506(a).
- 7. Creditor also objects to Debtor's failure to apply all his disposable income for a 5-year period to the Plan in violation of 11 U.S.C. § 1322(a)(4). Debtor's Schedule J shows monthly disposable income of \$2,298.94, yet Debtor proposes to pay only a fraction of that amount, \$220.00, each month. Such gross underpayment would severely prejudice all unsecured creditors, including Creditor should Debtor be successful in his attempt to declare Creditor's lien unsecured.
- 8. This Objection is made in accordance with the Federal Rules of Bankruptcy Procedure.

WHEREFORE, Creditor, Aspen Properties Group LLC by and through its Counsel, Stern & Eisenberg, PC, respectfully requests that this Honorable Court deny confirmation of the Chapter 13 Plan and dismiss the Chapter 13 Bankruptcy Petition together with such other relief this Court deems necessary and appropriate.

Respectfully Submitted:

Stern & Eisenberg, PC

By: /s/ STEVEN P. KELLY, ESQ. \_\_\_\_\_

STEVEN P. KELLY, ESQ.

Stern & Eisenberg, PC

1040 N. Kings Highway, Suite 407

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Phone: (609) 397-9200

Fax: (856) 667-1456

Bar Number: 010032010

Counsel for Movant

Date: February 12, 2019

STEVEN P. KELLY, ESQ.  
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Recommended Local Form	<input type="checkbox"/> Followed	<input checked="" type="checkbox"/> Modified
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**ORDER DENYING CONFIRMATION**

The relief set forth on the following page is hereby ***ORDERED***.

(page 2)

Debtor: Arvene R. Yeager

Case Number: 18-30126-CMG

Caption of Order: Order Denying Confirmation (and other relief)

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Upon the Motion of Aspen Properties Group LLC, through its Counsel, Stern & Eisenberg, PC, under the Bankruptcy Code and Rules of Bankruptcy Procedure as to the real property located at 17 Harborage Ave, Bayville, NJ 08721, and for good cause shown, it is:

ORDERED that the confirmation of the Chapter 13 Plan is DENIED.

STEVEN P. KELLY, ESQ.  
STERN & EISENBERG, PC  
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**Memorandum of Law in Support of Objection of Aspen Properties Group LLC to Chapter 13 Plan. With Respect to Real Property Located at 17 Harborage Ave, Bayville, NJ 08721**

The issues presented in the instant motion are not complicated. Therefore, no memorandum of law is required.

Respectfully Submitted:

Stern & Eisenberg, PC

By: /s/ Steven P. Kelly, Esq. \_\_\_\_\_

Steven P. Kelly, Esq.

Stern & Eisenberg, PC

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Bar Number: 010032010

Counsel for Movant

Date: February 12, 2019

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**CERTIFICATE OF SERVICE**

I, STEVEN P. KELLY, ESQ., hereby certify that a true and correct copy of the within Amended Objection to the Chapter 13 Plan of Aspen Properties Group LLC, together with Order and this Certificate, was sent to the Debtor Counsel and the Trustee and all other required parties in accordance with the Rules of Bankruptcy Procedure on the date set forth below.

Respectfully submitted,

STERN & EISENBERG, PC

By: /s/ Steven P. Kelly, Esq. \_\_\_\_\_  
Steven P. Kelly, Esq.  
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Phone: (609) 397-9200  
Fax: (856) 667-1456  
Bar Number: 010032010  
Counsel for Movant

DATE: February 12, 2019

Service List:

Name and Address of Party(ies) Served	Relationship of Party(ies) to the Case	Mode of Service
Albert Russo CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <small>Unless not a participant in ECF</small> <input type="checkbox"/> Other: _____ (as authorized by the Court*)
Andrew T. Archer Brenner Spiller & Archer 175 Richey Ave Collingswood, NJ 08107	Debtor Counsel	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-Mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <small>Unless not a participant in ECF</small> <input type="checkbox"/> Other: _____ (as authorized by the Court*)
Arvene R. Yeager 17 Harborage Ave Bayville, NJ 08721	Debtors	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular Mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> E-Mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <small>Unless not a participant in ECF</small> <input type="checkbox"/> Other: _____ (as authorized by the Court*)